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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/599,036	06/21/2000	Esmail Yousefi	22-0134	7772

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EXAMINER

LY, NGHI H

ART UNIT PAPER NUMBER

2617

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/599,036	<b>Applicant(s)</b> YOUSEFI ET AL.	
	<b>Examiner</b> Nghi H. Ly	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 10, 11, 22 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10, 11 and 22 is/are allowed.
- 6) ☒ Claim(s) 26-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2617

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 06/19/06 have been fully considered but they are not persuasive.

On page 8 of Applicant's remarks, Applicant argues that Ayerst does not teach a transition cell and a transition cell that is supported by a transition beam hop cycle.

In response, Ayerst does indeed teach Applicant's "a transition cell" (see column 2, line 45 to column 3, line 12, column 4, lines 42 to column 5, line 11, and see fig.1, cell 2A is a "transition cell" of cells 1A and 3A, or cell 2C is a "transition cell" of cells 1C and 3C) and a transition cell that is supported by a transition beam hop cycle (see column 2, line 45 to column 3, line 12, column 4, lines 42 to column 5, line 11, see "transmission cell" and "transmission time interval" and they read on Applicant's "a transition beam hop cycle").

On pages 9, 11 and 12 of Applicant's remarks, Applicant argues that Ayerst does not teach the transition beam hop cycle comprises transition downlink beam energy transmitted to a first transition cell a first percent of a time period, the transition downlink beam energy transmitted to a second transition cell a second percent of the time period and a power gated downlink beam transmitted to the first transition cell and the second transition cell for the remaining percent of the time period.

In response, Ayerst does indeed teach the transition beam hop cycle comprises transition downlink beam energy transmitted to a first transition cell a first percent of a time period, the transition downlink beam energy transmitted to a second transition cell a second percent of the time period and a power gated downlink beam associated with at least one of the first transition cell and the second transition cell for a remaining percent of the time period, such that the first downlink beam is provided to one of the first cells that is adjacent to the first transition cell during one of the second percent of the time period and the remaining percent of the time period (see column 2, line 45 to column 3, line 12, column 4, lines 42 to column 5, line 11, and see fig.1, cell 2A is a "transition cell" of cells 1A and 3A, or cell 2C is a "transition cell" of cells 1C and 3C, and the amount of time spent on transmitting on cells 1A, 2A, 3A, 1C, 2C or 3C reads on applicant's *"the first downlink beam is provided to one of the first cells that is adjacent to the first transition cell during one of the second percent of the time period and the remaining percent of the time period"*. In addition, applicant's claims merely recite *"first percent of a time period, a second percent of the time period and a remaining percent of the time period"*, but fail to further disclose how many percent. Therefore, Ayerst does indeed teach applicant's claimed limitations), and such that the second downlink beam is provided to one of the second cells that is adjacent to the second transition cell during one of the first percent of the time period and the remaining percent of the time period (see column 2, line 45 to column 3, line 12, column 4, lines 42 to column 5, line 11, and see fig.1, cell 2A is a "transition cell" of cells 1A and 3A, or cell 2C is a "transition cell" of cells 1C and 3C, and the amount of time spent on transmitting on cells 1A, 2A, 3A, 1C,

Art Unit: 2617

2C or 3C reads on applicant's "*the second downlink beam is provided to one of the second cells that is adjacent to the second transition cell during one of the first percent of the time period and the remaining percent of the time period*". In addition, Applicant's claims merely recite "*first percent of a time period, a second percent of the time period and a remaining percent of the time period*", but fail to further disclose how many percent. Therefore, Ayerst does indeed teach applicant's claimed limitations).

On page 10 of Applicant's remarks, Applicant argues that no motivation to combine the teaching of Takahashi with the teaching of Ayerst.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to do so found in the references themselves in order to provide a method for providing minimum transmission delay for delivery of a message in a communication system which comprises a plurality of transmission cells (see Ayerst, column 2, lines 14-17).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2617

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 26, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al (US 6,275,518) in view of Ayerst et al (US 5,689,805).

Regarding claims 26, 27 and 28, Takahashi teaches a system for generating a variable hop cycle beam laydown (see Abstract and column 3, lines 50-64, Takahashi teaches “a plurality of predetermined radio frequencies are hoped at regular time intervals” and it read on Applicant’s “variable hop cycle beam”) comprising: first cells supported by a first beam hop cycle associated with a first downlink beam (see fig.3, base station A or B with beams or in order to transmit signal, the teaching of Takahashi inherently teaches the downlink beam energy for first cells, and see column 3, lines 50-64), second cells supported by a second beam hop cycle associated with a second downlink beam, the second beam hop cycle being different than the first hop cycle (also see column 3, lines 50-64, Takahashi teaches “frequency hopping in different cells”.

Therefore, the teaching of Takahashi inherently includes second downlink beam), and transition cells supported by a transition beam hop cycle (also see column 3, lines 50-64, Takahashi teaches "*frequency hopping in different cells*" and "*a plurality of predetermined radio frequencies are hoped at regular time intervals*". Therefore, the teaching of Takahashi inherently includes a transition cells, a transition downlink beam and a second cells).

Takahashi does not specifically disclose the transition beam hop cycle comprises transition downlink beam energy transmitted to a first transition cell a first percent of a time period, the transition downlink beam energy transmitted to a second transition cell a second percent of the time period and a power gated downlink beam associated with at least one of the first transition cell and the second transition cell for a remaining percent of the time period, such that the first downlink beam is provided to one of the first cells that is adjacent to the first transition cell during one of the second percent of the time period and the remaining percent of the time period, and such that the second downlink beam is provided to one of the second cells that is adjacent to the second transition cell during one of the first percent of the time period and the remaining percent of the time period.

Ayerst teaches the transition beam hop cycle comprises transition downlink beam energy transmitted to a first transition cell a first percent of a time period, the transition downlink beam energy transmitted to a second transition cell a second percent of the time period and a power gated downlink beam associated with at least one of the first transition cell and the second transition cell for a remaining percent of

Art Unit: 2617

the time period, such that the first downlink beam is provided to one of the first cells that is adjacent to the first transition cell during one of the second percent of the time period and the remaining percent of the time period (see column 2, line 45 to column 3, line 12, column 4, lines 42 to column 5, line 11, and see fig.1, cell 2A is a "transition cell" of cells 1A and 3A, or cell 2C is a "transition cell" of cells 1C and 3C, and the amount of time spent on transmitting on cells 1A, 2A, 3A, 1C, 2C or 3C reads on applicant's *"the first downlink beam is provided to one of the first cells that is adjacent to the first transition cell during one of the second percent of the time period and the remaining percent of the time period"*. In addition, applicant's claims merely recite *"first percent of a time period, a second percent of the time period and a remaining percent of the time period"*, but fail to further disclose how many percent. Therefore, Ayerst does indeed teach applicant's claimed limitations), and such that the second downlink beam is provided to one of the second cells that is adjacent to the second transition cell during one of the first percent of the time period and the remaining percent of the time period (see column 2, line 45 to column 3, line 12, column 4, lines 42 to column 5, line 11, and see fig.1, cell 2A is a "transition cell" of cells 1A and 3A, or cell 2C is a "transition cell" of cells 1C and 3C, and the amount of time spent on transmitting on cells 1A, 2A, 3A, 1C, 2C or 3C reads on applicant's *"the second downlink beam is provided to one of the second cells that is adjacent to the second transition cell during one of the first percent of the time period and the remaining percent of the time period"*. In addition, Applicant's claims merely recite *"first percent of a time period, a second percent of the time period and a*



Art Unit: 2617

*remaining percent of the time period*", but fail to further disclose how many percent.

Therefore, Ayerst does indeed teach applicant's claimed limitations).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the above teaching of Ayerst into the system of Takahashi in order to provide a method for providing minimum transmission delay for delivery of a message in a communication system which comprises a plurality of transmission cells (see Ayerst, column 2, lines 14-17).

#### ***Allowable Subject Matter***

5. Claims 10, 11 and 22 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 10, 11 and 22 are allowable over the prior art of record for the reasons as stated in the Office action dated 06/16/05 (pages 11-12).

#### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 2617

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (571) 272-7911. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nghi H. Ly

A handwritten signature in black ink, appearing to read 'NHLy', is located below the typed name 'Nghi H. Ly'.